IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.6989 OF 2005

Shivaji Ramling Chapale & Ors. .. Applicants

Versus

The State of Maharashtra .. Respondents

Mr.P.P.Hudlikar with G.M.Savagave for applicants

Mr.V.V.Purwant for original complainant

Mr.R.Y.Mirza, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 17th November 2005.

P.C.

. Heard Mr.Hudlikar in support Mr.Mirza, A.P.P. and Mr.Purwant for original complainant.

2. F.I.R. Exh.A discloses that the complainant alleges that applicants have committed offences punishable under section 307, 143, 148, 149, 452, 323, 504, 506 of IPC as also section 31(x) of the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act, 1989.

3. Applicants moved an application for anticipatory bail being criminal misc.application No.860 of 2005. Learned Sessions Judge, after recording that F.I.R. alleges the aforesaid offences proceeded on the basis that offences under the Attrocities Act being alleged, section 18 thereof would constitute a bar in entertaining the application for anticipatory bail. It is only on this basis that application of applicants has been rejected.

4. After having perused relevant material,

in my view, when the F.I.R. alleges offences not just under Atrocities Act but under I.P.C., learned Judge could not have refused to take cognisance of the application for anticipatory bail. It may be that the prosecution contends that as far as Atrocities Act is concerned Section 18 would constitute a bar. However, the F.I.R. alleges commission of offences under the IPC as well. In these circumstances, the order of the Ist Ad hoc Additional Sessions Judge, Solapur dated 11th October 2005 cannot be sustained.

5. Criminal Misc. Application No.860 of 2005 is restored to the file of Sessions/ Additional Sessions Judge Solapur. The learned Judge is directed to hear the same afresh. Needless to state that all contentions including the plea that as far as Atrocities Act is concerned, section 18 thereof would constitute a bar in entertaining this application, are

expressly kept open. Interim protection granted by this court with the conditions as imposed to continue till final disposal of the application for anticipatory bail.

6. Parties to appear before Additional Sessions Judge, Solapur on 24th November 2005. The learned Judge shall endeavour to dispose of the application within a period of two weeks thereafter. Present application stands disposed of.

(S.C.DHARMADHIKARI, J)